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45993 7590 09/18/2009 IBM CORPORATION (RHF) C/O ROBERT H. FRANTZ P. O. BOX 23324 OKLAHOMA CITY, OK 73123				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEIGH ALLEN WILLIAMSON
and ROGER L. CUNDIFF JR.

Appeal 2009-001089
Application 09/902,694
Technology Center 2400

Decided: September 18, 2009

Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
JAY P. LUCAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-15, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellants' invention relates to an enhanced enterprise application server which can support the use of any URL resource, regardless of the protocol for that URL and regardless of a default set of URL resource protocols provided with the unenhanced application server. New URLs and URL resources are created, and new URL providers are installed on each application server. References to the new URL objects are bound into the namespace of the server. New URL providers are registered; a default URL stream handler factory is overridden and replaced by a new URL stream handler factory. Subsequently, an application program may lookup a resource by name, in response to which a naming service returns a URL for one of the new URL resources, so that the application can then use the new URL resource as needed. Therefore, a broader set of applications can be integrated and served by the so-equipped application server product.

Abstract.

Representative Claim

1. A method of providing an extension to a default set of resource functions in an enterprise application server, said application server having a default Universal Resource Locator (URL) stream handler factory class, said method comprising the steps of:
 - providing one or more extension URL providers on an application server, said extension URL providers each having a specified name, description, supported protocol and stream handler class name, and classpath;

binding a reference to one or more extension URL objects into a global namespace on said application server;

registering said extension URL providers to be used by an application program in a table of parameter sets having a protocol identifier and a stream handler class identifier;

overriding said default URL stream handler to enable an extension URL stream handler; and

binding one or more extension URL objects into an application server namespace such that said registered extension URL providers and extension URL objects are available to and for use by an application program through an application server naming service.

Prior Art

Austin	6,763,395 B1	Jul. 13, 2004
Bowman-Amuah	6,842,906 B1	Jan. 11, 2005
Charisius	2002/0104071 A1	Aug. 1, 2002

Examiner's Rejections

Claims 1-12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Austin and Bowman-Amuah.

Claims 13-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Austin, Bowman-Amuah, and Charisius.

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Have Appellants shown that Austin “teaches away” from a server-based implementation?

FINDINGS OF FACT

1. Austin teaches a system and method for viewing live data, such as measurement data from an instrumentation system, using a standard user agent or client, such as a web browser (col. 1, ll. 55-58).
2. The standard client provides support for default protocol schemes such as HTTP (col. 1, ll. 66-67).
3. The client can also handle a URL which references a source of live data without interacting with an HTTP server at any point (Abstract; col. 4, ll. 24-29).
4. Figure 4 of Austin shows an example of a client that can connect to a standard HTTP server and also connect to a live data source without connecting to a standard HTTP server (Fig. 4; col. 8, ll. 25-55, col. 9, l. 60 to col. 10, l. 9).

PRINCIPLES OF LAW

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007). To be nonobvious, an improvement must be “more than the predictable use of prior art elements according to their established functions.” *Id.* at 417.

“A reference may be said to teach away when a person of ordinary skill, upon [examining] the reference, would be discouraged from following

the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *Para-Ordnance Mfg. v. SGS Importers Int’l, Inc.*, 73 F.3d 1085, 1090 (Fed. Cir. 1995) (alteration in original) (quoting *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994)).

The prior art’s mere disclosure of more than one alternative does not constitute a teaching away from any of the alternatives when the disclosure does not criticize, discredit, or otherwise discourage the solution claimed. *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004).

What the prior art teaches and whether it teaches toward or away from the claimed invention are determinations of fact. *Para-Ordnance Mfg.*, 73 F.3d at 1088.

ANALYSIS

Appellants contend that Austin “teaches away” from a combination with Bowman-Amuah (App. Br. 7). Appellants contend that “Austin teaches away from server-based implementations” because Austin, in several places, discusses connecting to a data source without interacting with an HTTP server, without connecting to a web server, or without utilizing standard web server protocols (App. Br. 8-9; Reply Br. 3).

Appellants have not shown anything in Austin that would have discouraged a person of ordinary skill in the art from connecting to a standard HTTP server in addition to connecting to a live data source. In other words, there is nothing about Austin that teaches that the client should not, or cannot, connect to an HTTP server. To the contrary, Austin teaches a client that connects to an HTTP server (FF 1-4). Austin’s mere disclosure of connecting to a live data source without connecting to an HTTP server does

not constitute a teaching away from connecting to an HTTP server because Austin's disclosure does not criticize, discredit, or otherwise discourage connecting to an HTTP server.

Appellants also contend that "the proposed combination does not only *communicate* with an HTTP server, the proposed combination relocates or re-allocates functionality from the client to the server in order to meet the elements, steps, and limitations of the claims" (App. Br. 9). Appellants have not identified any functionality that is relocated or re-allocated from the client to the server. Appellants have also not identified which of the claim limitations are met by the alleged relocated or re-allocated functionality. Appellants' contention is therefore a mere allegation unsupported by any factual evidence.

In the Reply Brief (at 2), Appellants contend that the Examiner has not supported how the agent/client is a web browser that can be used on a server. However, Austin states that one embodiment of the system uses a standard user agent or client, such as a web browser, to view live data (FF 1). The standard client provides support for default protocol schemes such as HTTP (FF 2), which is used by the HTTP server shown in Figure 4 (FF 4).

CONCLUSION OF LAW

Appellants have not shown that Austin "teaches away" from a server-based implementation.

DECISION

The rejection of claims 1-12 under 35 U.S.C. § 103 as being unpatentable over Austin and Bowman-Amuah is affirmed.

The rejection of claims 13-15 under 35 U.S.C. § 103 as being unpatentable over Austin, Bowman-Amuah, and Charisius is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

msc

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